



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO ALDERMAN RAILCAR SERVICES, INC. Registration Number 32086

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Alderman Railcar Services, Inc., regarding Alderman Railcar Services, Inc., for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Alderman Railcar Services, Inc." means Alderman Railcar Services, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Alderman Railcar Services, Inc. is a "person" within the meaning of Va. Code § 10.1-1300.
2. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
3. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Lynchburg, Virginia.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

6. “Facility” means the Alderman Railcar Services, Inc. facility, located at 3933 Horseshoe Road in Charlotte County, Virginia. Alderman Railcar Services, Inc. refurbishes railcars.
7. “Notice of Violation” or “NOV” means a type of Notice of Violation under Va. Code § 10.1-1309.
8. “Order” means this document, also known as a “Consent Order” or “Order by Consent,” a type of Special Order under the Virginia Air Pollution Control Law.
9. “Regulations” or “Regulations for the Control and Abatement of Air Pollution” means 9 VAC 5 Chapters 10 through 80.
10. “Va. Code” means the Code of Virginia (1950), as amended.
11. “VAC” means the Virginia Administrative Code.
12. “Virginia Air Pollution Control Law” means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. Alderman Railcar Services, Inc. owns and operates the Facility in Charlotte County, Virginia. The Facility refurbishes railcars.
2. On September 4, 2008, Department staff conducted a Partial Compliance Evaluation of the Facility for compliance with the requirements of the Virginia Air Pollution Control Law and the Regulations. The evaluation was conducted in response to a complaint received by the DEQ. Based on the inspection and follow-up information, Department staff made the following observation:
 - a. Two spray bays and a shot blasting bay were constructed and in operation.
3. 9 VAC 5-80-1120 (A) requires that “No owner or other person shall begin actual construction, reconstruction or modification of any stationary source without first obtaining from the board a permit to construct and operate or to modify and operate the source.”
4. 9 VAC 5-80-1210 (D) requires that “Any owner who constructs or operates a new or modified source not in accordance with the terms and conditions of any permit to construct or operate, or any owner of a new or modified source subject to this article who commences construction or operation without receiving a permit hereunder, shall be subject to appropriate enforcement action including, but not limited to, any specified in this section.”
5. 9 VAC 5-50-50 (A) requires that “Any owner of a new or modified source subject to the provisions of this chapter shall provide written notifications to the board of the following:
 1. The date of commencement of construction, reconstruction or modification of a new or modified source postmarked no later than 30 days after such date.
 2. The anticipated date of initial startup of a new or modified source postmarked no more than 60 days nor less than 30 days prior to such dated.
 3. The actual date of initial startup of a new or modified source postmarked within 15 days after such

- date.
4. The date of any performance test required by 9VAC5 Chapter 80 (9VAC5-80) and any other performance test the owner wishes the board to consider in determining compliance with a standard. Notification shall be postmarked not less than 30 days prior to such date.
 5. The date upon which demonstration of the continuous monitoring system performance begins in accordance with 9VAC5-50-40 C. Notification shall be postmarked not less than 30 days prior to such date.
 6. The anticipated date for conducting the opacity observations required by 9VAC5-50-20 G 1. The notification shall also include, if appropriate, a request for the board to provide a visible emissions reader during a performance test. The notification shall be postmarked no less than 30 days prior to such date.”
6. On January 14, 2009, the Facility submitted a Form 7 – Air Permit Application. Review by DEQ Air Permit Staff concluded that the operation is subject to the permitting requirements of 9 VAC 5 Chapter 80, Article 6 of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution.
 7. On June 16, 2009, based on the inspection and follow-up information, the Department issued a Notice of Violation, ASCRO No. 7019, to Alderman Railcar Services, Inc. for the violations described in paragraphs C(2) through C(6) above. On June 17, 2009, Alderman Railcar Services, Inc. was issued a New Source Review permit to construct and operate a railcar refurbishing facility.
 8. On June 24, 2009, Alderman Railcar Services, Inc. submitted a written response to the NOV confirming receipt and inquiring on the enforcement process.
 9. On July 2, 2009, Department staff met with representatives of Alderman Railcar Services, Inc. to discuss the violation.
 10. Based on the results of the September 4, 2008 inspection, the documentation submitted on January 14, 2009, and the July 2, 2009, meeting the Board concludes that Alderman Railcar Services, Inc. has violated 9 VAC 5-80-1120 (A), 9 VAC 5-80-1210 (D), and 9 VAC 5-50-50 (A) as described in paragraphs C(2) through C(6) above.
 11. By issuance of the New Source Review permit issued on June 17, 2009 Alderman Railcar Services, Inc. is now operating in compliance and the violations described in paragraphs C(2) through C(6) above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and -1316, the Board orders Alderman Railcar Services, Inc., and Alderman Railcar Services, Inc. agrees to pay a civil charge of \$3,777.00. Four payments of \$944.25 shall be received as follows; first payment shall be received no later than 60 days from effective date of this Order, second payment shall be received no later than 90 days from effective date of this Order, third payment shall be received no later than 120 days from the effective date of this order, and fourth payment shall be received no later than 150 days from the effective date of this Order. Payments shall be received in accordance with this Order in settlement of the violations cited in this Order.

Payments shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Alderman Railcar Services, Inc. shall include its Federal Employer Identification Number (FEIN) with the civil charge payments and shall indicate that the payments are being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Alderman Railcar Services, Inc., for good cause shown by Alderman Railcar Services, Inc., or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Alderman Railcar Services, Inc. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Alderman Railcar Services, Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Alderman Railcar Services, Inc. declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Alderman Railcar Services, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Alderman Railcar Services, Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Alderman Railcar Services, Inc. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Alderman Railcar Services, Inc. shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the Alderman Railcar Services, Inc. intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Alderman Railcar Services, Inc. Nevertheless, Alderman Railcar Services, Inc. agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. Alderman Railcar Services, Inc. petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Alderman Railcar Services, Inc.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Alderman Railcar Services, Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Alderman Railcar Services, Inc. and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of Alderman Railcar Services, Inc. certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Alderman Railcar Services, Inc. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Alderman Railcar Services, Inc.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Alderman Railcar Services, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 5th day of April, 2010.



Steven A. Dietrich, Regional Director
Department of Environmental Quality

Alderman Railcar Services, Inc. voluntarily agrees to the issuance of this Order.

Date: 4/1/10 By: [Signature] President
(Person) (Title)

Commonwealth of Virginia,
City/County of Charlotte

The foregoing document was signed and acknowledged before me this 1st day of

April, 2010, by [Signature], who is
(name)

President of Alderman Railcar Services, Inc. on behalf of the Corporation.
(title)

[Signature]
Notary Public

112388
Registration No.

My commission expires: 4-30-2012

Notary Seal:

